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NORTH KERN WATER STORAGE DISTRICT

April 1, 2016

VIA U.S. MAIL AND E-MAIL

California Department of Water Resources
Attn: Lauren Bisnett, Draft GSP Emergency Regulations Public Comment
P.O. Box 942836
Sacramento, CA 94236

Subject: Public Comment on Sustainable Groundwater Management Act (SGMA) Draft
Emergency Regulations for Groundwater Sustainability Plans and Alternatives

Dear Ms. Bisnett,

North Kern Water Storage District (North Kern) appreciates the opportunity to provide comments to the California Department of Water Resources (DWR) on the Sustainable Groundwater Management Act Draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives (Draft Regulations) dated February 18, 2016.

North Kern is organized as a water storage district under state law and overlies a portion of the Kern County Subbasin of the Tulare Lake Hydrologic Region as defined in DWRs Bulletin 118. North Kern is a member of the "Kern Groundwater Authority" (KGA) which is a joint powers authority established under State law to develop a framework for the active, comprehensive and cooperative management of the San Joaquin Valley portion of the groundwater basin underlying Kern County. North Kern supports the comment letter provided by KGA on the Draft Regulations and also the comment letter submitted by the law firm Minasian, Meith, Soares, Sexton & Cooper, LLP (Minasian). By and through this letter, North Kern adopts each comment and objection in the KGA and Minasian letters as its own, and incorporates herein by this reference all such comments and objections. In addition to comments provided in those letters North Kern emphasizes several elements of the Draft Regulations in the comments below.

1. SGMA mandates DWR to develop regulations to among other things assist local agencies in developing and implementing GSPs and coordination agreements. However, as written, the Draft Regulations are excessively expansive and prescriptive and would result in significant unnecessary costs and unnecessary burdens on GSAs. The Regulations simply stray too far from the requirements in SGMA and should be substantially revised to bring them into conformance with the legislation. For example, whereas SGMA allows for multiple GSAs and multiple GSPs in a basin, the Draft Regulations indicate that a single GSA (called the

“Coordinating Agency” or the “Submitting Agency”) must be identified for the basin as the “sole point of contact with” DWR. The Coordinating Agency is purposed to have the authority to interpret and resolve disputes among GSAs within the basin. Although local agencies could choose to adopt this approach to SGMA, the intent of SGMA is clearly for these decisions to be made at the local level, not mandated through DWRs regulations. An approach more consistent with SGMA would be to use required “Coordination Agreements” as the way to ensure consistency in data and assumptions between GSAs.

2. One of the fundamental tenants of SGMA is that any groundwater plans prepared pursuant to the legislation not “alter surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.” However, the Draft Regulations fail to acknowledge or confirm this critical aspect of the law. Without this acknowledgement portions of the regulations could be interpreted as affecting rights to surface water and/or groundwater. The Draft Regulations need to be strengthened to assure protection of water rights. The comment letter from Minasian provides examples of the potential impact/interpretation of the Draft Regulations with respect to water rights and suggests changes for strengthening the Regulations in this regard.
3. As a “water storage district” North Kern believes it is necessary and appropriate for the Regulations to recognize and incorporate “Managed Groundwater Recharge” activities that are critical water management tools in Kern County and other areas of the State. It is particularly important that agencies and GSAs are fully credited within the GSP water budget framework for supplies recharged to the basin through managed programs since these supplies are critical to determining sustainability. This credit needs to be recognized particularly with respect to how it influences groundwater inflows and outflows between GSAs for proposed water budgets. Full recognition of Managed Groundwater Recharge activities will become even more important in the future as more agencies/GSAs develop new or expanded recharge/water banking programs in direct response to SGMA.
4. The Draft Regulations essentially mandate the development and use of groundwater-surface water models as part of the water budgets in the GSPs. This blanket requirement is inappropriate. Certainly models will be helpful in some basins and GSAs, but other less complicated and expensive methods may be adequate in other areas. How these latter methods will be judged as “equally effective” (Section 354.18(c)) to models is unclear. DWR should re-evaluate the current proposed Regulation with the intent of allowing local GSAs flexibility to use the most efficient and effective tools for determining sustainability. Furthermore, to the extent GSAs determine that models are necessary, given their cost and complexity, the Regulations should provide more than the proposed five years for model development.
5. “Imported water supplies” are vital to support sustainable groundwater conditions in many areas of the State and additional recognition of this should be included in the Regulations. North Kern strongly supports the recommendation in the Minasian comment letter that

“imported water” be added as a defined term in the Regulations (see the Minasian letter for a proposed definition).

Thank you for the opportunity to provide comments on the Draft Regulations. Please contact the undersigned if you have questions regarding North Kern’s comments.

Respectfully,



Richard Diamond
General Manager